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SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 29 March 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 10.05 a.m.

STATEMENT BY THE VICE-MINISTER FOR FOREIGN AFFAIRS AND COOPERATION OF MOZAMBIQUE

1. Ms. RODRIGUES (Mozambique) said that the continuing violations of human rights in many parts of the world demonstrated that the universality of human rights was still not accepted by all. Her country remained determined to take bold steps to strengthen democracy, good governance and the rule of law. It was in that spirit that the second general elections, to be held in October 1999, were being prepared. By strengthening national and local human rights institutions and organizations, her country was undertaking a national human rights education campaign from the standpoint of prevention. Human rights had thus been introduced in school curricula at various levels. The President of Mozambique had stressed that the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights afforded a unique opportunity to protect and promote those rights, and that that responsibility lay primarily with the State. The Parliament was currently revising the Constitution to give a new dimension to rights, obligations and fundamental freedoms. While healing the wounds of war, Mozambican society was endeavouring to establish a culture of peace, reconciliation, solidarity and tolerance.

2. Her Government upheld the universality of civil, political, economic, social and cultural rights, including the right to development, and therefore subscribed to the objectives of the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128. It was in that spirit that the Government had drawn up a five-year plan which had combating poverty as one of its priorities. The plan sought to promote social equality by improving health services and access to education, promoting employment and providing multifaceted support for the most vulnerable social groups, including women and children. International trafficking in women and girls was also a source of concern to her Government, which appealed to the Commission for assistance in ending that phenomenon.

3. Efforts were currently under way to provide the judicial system with more qualified personnel and additional resources. The Government was also undertaking a survey in all prisons to determine, inter alia, the number of persons who had been held in preventive detention for longer than the legally prescribed period, imprisoned without a trial or illegally detained, with a view to taking appropriate decisions.

4. Her country had often denounced xenophobia, terrorism and oppression in various international forums. At the regional level, it would work for conflict prevention and resolution through the Second Southern Africa International Dialogue on Smart Partnership. Mozambique, which continued to be confronted with the increasing threat of anti-personnel landmines, had ratified the Ottawa Convention on the Prohibition on the Use Stockpiling, Production, Transfer of Anti-personnel Mines and on their Destruction. From 3 to 7 May 1999, the country would have the honour of hosting the first meeting of the States parties to that Convention, which should lead to

a strengthening of international cooperation and assistance to address that problem. A meeting on the question of children soldiers would also be held at Maputo.

5. The current session was the last in which Mozambique would participate as a member of the Commission. It would, however, continue to work closely with the Office of the High Commissioner for Human Rights and pursue the ideals of the Universal Declaration of Human Rights so that future generations might live in peace and dignity.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS AND TRADE OF THE REPUBLIC OF KOREA

6. Mr. HONG Seok-hyong (Republic of Korea) said that since the establishment of their Government in 1948, the same year that the Universal Declaration of Human Rights had been adopted, the people of the Republic of Korea had continued, against difficult odds, to believe in democracy and human rights, which had become a major concern of the international community. The universality, indivisibility and interdependence of those rights must be recognized. Unfortunately, in many parts of the world, blatant and systematic violations of human rights continued in disregard of law, spirituality or religion, and there were still totalitarian regimes that suppressed basic rights and fundamental freedoms.

7. All human rights, whether they could only be promoted, civil and political rights that had long preceded most economic, social and cultural rights, particularly the right to development, ought to be guaranteed at the same time that democracy and good governance were strengthened. Economic success without the concomitant achievement of human rights could not be sustained. The Korean people knew that from bitter experience. That was why the policies of the Republic of Korea were carefully built on the principle of democracy and the market economy.

8. During the past 50 years, the champions of human rights had advanced the cause of human rights. Presently, the mechanisms of the United Nations for the protection of human rights must be strengthened further. For the part, the Commission ought to be able to address its attention on the basis of the valuable document prepared by the Bureau of the Commission at the fifty-fourth session under the leadership of the Chairman. Active activities of the non-governmental organizations (NGOs) and individuals who had stood up and fought for human rights and fundamental freedoms were worthy of commendation.

9. As the Secretary-General of the United Nations had noted, "Today's human rights violations are the causes of tomorrow's conflicts". The struggle against poverty, oppression and injustice must be intensified and all States must be encouraged to ratify the six core human rights treaties within the next five years, a goal set by the High Commissioner for Human Rights. In addition, special measures must be taken to protect the rights of vulnerable groups such as the disabled, minorities, refugees, women and children. It was reliably reported that in the Democratic People's Republic of Korea many people, particularly children, suffered from hunger and malnutrition.

The international community must help solve that problem. However, the authorities of that country must also take all possible measures to ensure that the people enjoyed a minimum standard of living.

11. The Republic of Korea had taken a series of steps to strengthen the exercise of human rights. A National Human Rights Commission had been established and a tripartite commission of labour, management and Government had been created. It had become legal for teachers to form trade unions. Legislation to combat discrimination based on gender had been strengthened and provisions to the benefit children and the elderly had been expanded. In the light of the views expressed by the Human Rights Committee, some provisions of the National Security Law relating to freedom of expression were to be amended.

12. Lastly, he wished to draw the Commission's attention to the plight of ex-military Koreans on the Korean Peninsula who had been separated from their families for half a century. That problem could be resolved only with the cooperation of the authorities of the Democratic People's Republic of Korea and the support of the international community. In that connection, his Government was willing to authorize the repatriation to the Democratic People's Republic of Korea of agents from that country who had recently been released under a special amnesty. The authorities of the Democratic People's Republic of Korea should reciprocate by returning to their families persons who had been abducted and other persons of South Korean origin who had been held in the North against their will.

13. His country would continue to strive for the realization of all human rights for all.

Statement by the ATTORNEY-GENERAL, MINISTER OF JUSTICE, HUMAN RIGHTS AND PARLIAMENTARY AFFAIRS AND MINISTER OF LABOUR AND INDUSTRIAL RELATIONS OF MAURITIUS

14. Mr. SEEBAROC (Mauritius) said that every region of the world was dealing with a disturbing resurgence of intolerance which had provoked savage conflicts and numerous violations of human rights. He welcomed the decision of the General Assembly to convene a World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001.

15. Mauritius was a multi-ethnic, multicultural and multireligious country that had largely succeeded in building a society based on tolerance, equality and social justice. It was a unique example of unity in diversity.

16. His Government was convinced that human rights and economic progress were complementary and that social peace and political stability were the two fundamental elements of development. However, groups of individuals systematically attacked institutions without any valid reason and the press sometimes published unfounded reports that tarnished a country's image. In such situations, sensationalism should not prevail over objectivity. In that connection, his Government had taken steps to strengthen the civil and political rights of Mauritian citizens.

17. The Supreme Court was actively protecting the rights of the individual. The Constitution guaranteed all the fundamental rights set out in the European

Convention for the Protection of Human Rights and Fundamental Freedoms. NGOs were also actively involved in the promotion and protection of human rights in Mauritius. Furthermore, in 1998 the Parliament had passed a law creating the National Human Rights Commission, which was authorized to investigate complaints by individuals of violations of fundamental rights by public officials, particularly members of the police force. In 1997, the Government had established a Presidential Commission which had made recommendations on ways of safeguarding the independence, impartiality and efficiency of the judiciary. Those recommendations had been duly reflected in a bill on the administration of justice which the Government had submitted to the Legislative Assembly. Moreover, the Prime Minister had announced the forthcoming enactment of an equal opportunities act. A human rights unit had also been established within the Ministry of Justice.

17. Mauritius had ratified the core human rights instruments and had sent high-level delegations to present the country's reports to treaty bodies, signifying the importance it attached to human rights. Several distinguished Mauritian justices had served or were serving on such human rights bodies as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

18. At the regional level, Mauritius had hosted the twentieth session of the African Commission on Human and Peoples' Rights in 1996 and would host the first ministerial meeting of the Organization of African Unity (OAU) devoted to human rights. Mauritius had also participated in the peace initiatives undertaken by OAU in Rwanda and Burundi and had helped monitor elections in various African countries. Mauritius had also undertaken conciliation between the warring factions in the Comoros.

19. His Government believed that the best way to protect and promote human rights was through a strengthening of multilateralism and the international legal system. He recalled in that connection that Mauritius had been the first country to sign the Statute of the International Criminal Court in Rome.

STATEMENT BY THE MINISTER OF EDUCATION OF TUNISIA

20. Mr. ZOUARI (Tunisia) said that the fiftieth anniversary of the Universal Declaration of Human Rights had been celebrated in Tunisia with a national programme under the patronage of the President of the Republic and it had comprised numerous events. Commitment to human rights should not be limited to occasional celebrations, however. Ongoing and sustained efforts must be made to ensure the realization of the principles set forth in international human rights instruments and to combat constantly the injustice, oppression and marginalization from which many people suffered, chiefly as a result of the economic imbalances occasioned by globalization, and human rights violations which were largely the result of civil wars or foreign occupation. His country believed that the right of peoples was an integral part of human rights and therefore supported the struggle of the Palestinian people to recover its land and its right to freedom and dignity. His delegation was deeply disturbed by the deadlock in the Middle East peace process and by Israel's refusal to honour its international commitments.

21. Tunisia's accession to international human rights instruments had led to political, legal and social reforms which had strengthened fundamental freedoms and allowed all citizens without exception to enjoy their economic, social and cultural rights. Since the Change of 7 November 1997, far-reaching structural reforms had been instituted under the leadership of President Ben Ali. Those reforms had made it possible to establish political pluralism, create a climate in which an active civil society could be built and promote education in tolerance, solidarity and mutual assistance; essential measures had also been taken to protect families. Women's status had improved significantly since independence; specifically, women were better represented in professional fields and in leadership positions. The State's efforts in the educational and social spheres had also been productive. The school enrolment rate for children (girls and boys) had surpassed 98 per cent, some 80 per cent of all Tunisians owned their own homes, and the poverty rate, which had stood at more than 50 per cent at independence, had dropped by roughly 6 per cent.

22. The social model Tunisia had chosen was based on respect for human rights in all their aspects within a framework of democracy which called for the building of a society that balanced the rights and duties of each individual without favouring any one right over the others. The educational system had undergone a major reform with a view to ending all forms of extremism and delinquency. The educational and pedagogical measures taken by the Tunisian authorities to achieve the requisite objectives included the establishment of a National Human Rights Education Commission, the development of a masters degree in civic education, the enactment of a child welfare code and a revision of school curricula. Human rights education must seek to ensure that respect for human rights became second nature, thereby guaranteeing social cohesion around values of tolerance and justice.

23. In addition to those actions in the social and educational fields, the Tunisian State had endeavoured to protect the rights of the most disadvantaged groups of the population. To that end, it had established a number of mechanisms and projects such as the 26-26 Solidarity Fund and the Tunisian Solidarity Bank. As part of the ongoing political and constitutional reforms the country had taken a number of steps, including amendment of article 75 of the Constitution with a view to making opinions of the Constitutional Council binding on the executive, legislative and judicial branches of government; amendment of the Electoral Code to allow the opposition to hold at least 20 per cent of all seats in Parliament in the 1999 elections and in the municipal councils during the municipal elections to be held in 2000; reduction of police custody from 10 days to three, with only one extension possible; the need to inform persons in police custody of their rights; confirmation of the right of appeal to a higher court in criminal matters; and amendment of the Criminal Code to include the definition of torture used in the United Nations Convention against Torture, to which Tunisia had become a party without reservation.

24. The fact that human rights came into play in so many different situations meant that each situation should be evaluated objectively and humbly. No one had the right to claim to have achieved perfection as to act

as a judge or teacher. Tunisia welcomed the report on the review of the Commission's machinery, but believed that, owing to the importance of the topic, any decision should be preceded by greater study.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1999/2 and 109; E/CN.4/1998/CRP.4)

25. The CHAIRPERSON invited all members of the Commission who wished to do so to comment on the draft timetable for the fifty-fifth session contained in the annex to the order of the day for Tuesday, 23 March 1999.

26. Mr. ALFONSO MARTÍNEZ (Cuba) said it was unfortunate that the consideration of agenda item 3, which had always been of considerable importance in the work of the Commission, was not mentioned in the programme of the present meeting, which might result in some disagreement. In the interest of the smooth functioning of the Commission, he requested the secretariat to ensure in future that all items which were scheduled to be considered should be included in the relevant order of the day.

27. With regard to the timetable itself, his delegation was pleased to note that two of its proposals on holding an additional meeting of the Working Group to draft proposals for the World Conference against Racism, Racial Discrimination, Xenophobia and other Forms of Intolerance and another on a plenary meeting on agenda item 10 had been included. It regretted, however, that its proposal to postpone consideration of agenda item 9 to the last week of the session had not been accepted. The questions considered under that item, which were often the most controversial, could lead to confrontations that might well have an adverse effect on the consideration of other items. Since the timetable proposed by the Bureau could be modified in accordance with circumstances, his delegation was not opposed to adopting it as it stood. However, it should be reflected in the summary record of the meeting that his delegation would prefer to postpone consideration of agenda item 9, which experience had shown could have deleterious effects, to the end of the session. His delegation was also concerned that the timetable was very full, a situation that could hamper the effectiveness of the debates.

28. Mr. GROOMS (Norway), supported by Mr. HÖYNCK (Germany), recalled that the Commission had itself decided the previous year to consider agenda items in order and said that the timetable proposed by the Bureau was a balanced document which reflected a satisfactory compromise between the wishes of delegations that were sometimes hard to reconcile. He called upon Commission members to take a decision on the timetable promptly, so that delegations might have enough time to make preparations.

29. Mr. SINGH (India) said he supported the request by the representative of Cuba to have item 3 included in the order of the day for the relevant meetings; otherwise, delegations might miss important statements. Apart from that, his delegation could accept the timetable proposed by the secretariat.

30. Mr. WANG Min (China) said he unreservedly endorsed the remarks made by the representatives of Cuba and India with regard to item 3. He also agreed with the representative of Cuba that by considering agenda item 9 in the second week of the session, the Commission ran the risk that a confrontational

atmosphere might develop that would have an adverse effect on the Commission's work, although it would in fact be technically difficult to move the item at the present stage. It would be preferable for the timetable to be adopted as soon as possible.

31. Mr. KREID (Austria) said he shared that view and called on delegations to spare no effort to prevent pointless confrontations when they arose.

32. The CHAIRPERSON recalled that consideration of item 3 had traditionally been left open and that it was not the practice to include it systematically in the order of the day. She agreed, however, that it would be useful to do so, either by indicating the list of speakers for that item - if it existed - or by adding a simple note. It was in the interest of the efficiency of the Commission's work for a decision to be taken as soon as possible on the timetable proposed by the secretariat. Accordingly, if she heard no objection, she would take it that the timetable was adopted.

33. It was so decided.

34. Mr. HAYES (Ireland) associated himself with the statement made by the representative of Germany on behalf of the European Union and by the representative of Norway on behalf of the Group of Western European and other States concerning the report of the Bureau of the fifty-fourth session on the rationalization of the Commission's work (E/CN.4/1999/104). He was pleased that the Commission had decided to review those mechanisms and procedures to enhance the effectiveness of its work. The report in question contained a wealth of proposals and suggestions which the Commission ought to take up without delay, in other words during the current session. His delegation would participate in that exercise in a constructive spirit and hoped that all delegations would do likewise so that work could move ahead rapidly.

35. Mr. CALLEJOS CHIRIBOGA (Ecuador) said that the report of the Bureau of the fifty-fourth session did deserve to be considered at once. His delegation would support the holding of informal consultations with a view to reaching agreement on that question. It could also support the proposal to have all decisions on the matter taken by consensus, provided that did not allow some delegations to exercise a veto.

36. Mr. KREID (Austria) said that the report on the rationalization of the Commission's work had been issued sufficiently in advance to enable all delegations to study it at length; hence there was no reason to take up the question at the present session. Obviously the reform process contemplated must be undertaken and that process would take time, but that did not mean it should be postponed. His delegation believed that the ideas put forward by the Chairperson as to how to proceed in considering that question were quite practical and should be followed. He therefore called on other delegations to begin that task right away so that, by the end of the session, the Commission could have a clearer idea of what it should do.

37. Ms. IZQUIERDO (Uruguay) agreed that the Commission must work in a constructive spirit to reach consensus on measures to enhance the effectiveness of its work and improve its mechanisms. It would certainly be useful to hold informal consultations under the leadership of the Chairperson

during additional meetings for which interpretation services would be provided. Such exchanges of views would enable all delegations to find ideas in common, to keep their positions flexible and to study the Commission's mechanisms without committing themselves to a specific outcome.

38. Mr. PADILLA MENENDEZ (Guatamala) commended the members of the Bureau and the Chairman of the fifty-fourth session for their report on the rationalization of the Commission's work. Commission members should agree on the procedure to be followed in reviewing the recommendations contained in the report and taking the necessary decisions. His delegation supported the suggestion by the Chairperson that informal consultations should be held during additional meetings. As the representative of South Africa had suggested, a group of "friends of the Chair" could sum up such informal discussions and report on them to the Commission in plenary when the relevant agenda item came to be considered.

39. His delegation believed it would be preferable to adopt decisions by consensus, but did not think that that rule should be compulsory, since it would be impossible to take decisions if there was any disagreement. His delegation would do everything possible to ensure that work on the rationalization of the Commission's mechanisms was successful.

40. Mr. MORENO (Italy) said that the proposals concerning improvement of the Commission's mechanisms were of crucial importance to the future work of the Commission in the area of human rights. They had already been the subject of thorough exchanges of view, and hence there was no reason to consider them in plenary. It would be unacceptable to postpone a decision on those proposals by sending them to an inter-sessional working group. Everyone realized it was necessary to improve the functioning and enhance the effectiveness of the Commission. The Commission should therefore take advantage of the work done by the Bureau and take a decision without delay; if necessary, it could revert later to areas on which there was disagreement.

41. Mr. AKRAM (Pakistan) said the important thing was to avoid any polarization over the report of the Bureau of the fifty-fourth session and any politicization of the debate on that question. The topic elicited divergent views. Some had to do with the very substance of the proposals submitted. Others were the product of a lack of mutual trust between members. It was important, therefore, to build up that confidence in two ways. First of all, it must be determined that there was no intention of having unacceptable proposals adopted by a majority vote, which was why consensus had been suggested as the basis for work. All working groups took their decisions by consensus, and the Commission should also operate that way in the case of the report under consideration. There was, however, a difference between consensus and unanimity, and consensus had never been a way for a delegation to use its veto.

42. Furthermore, there had never been any question of failing to take the content of the report prepared by the Bureau of the fifty-fourth session into account. It was surely necessary to study it in depth, but it was also obvious that there would not be enough time to do so at the present session. That was why a group of delegations had proposed the establishment of an open-ended inter-sessional working group to harmonize all positions. It was

surprising that that solution had been rejected on the pretext that small countries were not represented at Geneva and would therefore be unable to participate in the working group; that argument had never been put forward and other inter-sessional working groups had been established. Indeed, an allocation under the United Nations budget could be requested so that representatives of small countries could take part in meetings of the Working Group.

43. The CHAIRPERSON said that all the remarks made on the question were very useful, but she feared the Commission would end up devoting a good deal of its already limited time to that question. She would do her best to come up with new suggestions that she hoped would be of assistance to delegations.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 5) (continued) (E/CN.4/1999/10, 11 and 123; E/CN.4/1999/NGO/32, 58 and 59)

44. Mr. AL MANA (Qatar) expressed his country's deep concern at the grave continued violations of human rights in the occupied Arab territories, including Palestine, where the continued occupation was in itself a violation of the right to self-determination, as the Special Rapporteur on the situation of human rights in the occupied Arab territories had confirmed in his report (E/CN.4/1999/24). Qatar was particularly concerned about the colonization and confiscation policy pursued by Israel with a view to changing the demographic composition of Jerusalem. Those unacceptable practices had destroyed hopes of a lasting peace in the territories. That sorry situation was the fatal result of the Israeli Government's intransigence and failure to respect the basis on which the peace process had been built, namely the principle of land for peace and Security Council resolutions 242 (1967) and 338 (1973). Rather than continue to flout human rights and the international community, the Israeli Government should realize that peace could be achieved only on the basis of respect for international law. There could be no peace as long as the Palestinian people was unable to enjoy its legitimate rights, the most important being the right to establish an independent State with Jerusalem as its capital.

45. Mr. NSEIR (Observer for the Syrian Arab Republic) said that the right to self-determination was an inalienable right deriving from the Charter of the United Nations and a whole series of international instruments. Yet Israel denied the Palestinian people that right by using the worst forms of violence and destruction, as was regularly reported in the media. It had to be acknowledged that all peoples who had struggled for independence had achieved their ends with the exception of the Palestinians, who had been struggling for more than half a century with the support of the international community against Israel's expansionist and aggressive ideology. The exercise by that people of its right to self-determination, which must entail the creation of an independent State, was long overdue.

46. The Syrian Arab Republic had been one of the first countries to support, particularly within the Special Committee on Decolonization, efforts by countries to secure independence. In doing so, it had always sought to draw a distinction between legitimate struggles for self-determination and terrorism, which it rejected and condemned.

47. Mr. LEMINE (Observer for Mauritania) pointed out that the right of peoples to self-determination was a prerequisite for the exercise of all human rights, since colonial or foreign domination was incompatible with the exercise of those rights. While the legal texts setting forth that right had helped the overwhelming majority of States currently Members of the United Nations to gain independence, that had not been the case with the Palestinian people, which had been deprived of its legitimate rights and driven from its territory at the time the wind of decolonization had begun stirring throughout the world. Nearly 50 years later, that injustice had yet to be rectified, despite the resolutions adopted by various United Nations bodies, including the Commission on Human Rights, and in particular General Assembly resolution 181 (II), which provided for the partition of Palestine into two States and separate legal status for the Holy City of Al Quds.

48. The Commission, which was the international community's living conscience, had continued to denounce Israeli occupation and to call for a just and lasting solution. The peace process begun in Oslo had created the hope that such a solution was at hand, but three months before the end of the agreed transitional period it must be acknowledged that there was still a long way to go. The responsibility for that deadlock in the peace process, with all the suffering it entailed for the Palestinian people, lay with Israel. That country must abide by international law and realize that there could be no lasting peace in the Middle East without withdrawal from all occupied territories, including the Holy City of Al Quds, and the establishment by the Palestinian people of an independent State on its own land. The international community and the two sponsors of the peace process in particular must redouble their efforts to ensure respect for international law in that sensitive region and create conditions conducive to a peaceful, comprehensive, just and lasting settlement that guaranteed the Palestinian people its legitimate rights and allowed all other peoples of the region to live in peace and security.

49. Mr. MADANAT (Observer for Jordan) said that for many long decades Israel had deprived the Palestinian people of its right to self-determination, which was set out in the Charter of the United Nations. Israel also flagrantly violated the fourth Geneva Convention, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the principles set out in the Vienna Declaration and Programme of Action.

50. Throughout those tragic decades, Jordan had left no stone unturned in the search for a peace in the Middle East that would guarantee the right of the Palestinian people to self-determination. The peace process that had started in Madrid in 1991 and had inspired in Palestinians, Jordanians and Arabs the hope that peace would become a reality in the region on the basis of the self-determination of the Palestinians, in accordance with Security Council resolutions 242 (1967) and 338 (1973) and the principle of land for peace, had suffered many setbacks in recent years. While some might attribute that situation to the violence and hatred that some extremist elements tried to impose on the region, the Israeli Government bore much of the responsibility because of its reluctance to take the necessary steps to move peace forward. The keys to security, peace and the welfare of future

generations were the dedication, courage, honesty, mutual respect and unwavering commitment to the implementation of the peace agreements, including those signed at Wye Plantation.

51. He urged the Israeli Government to desist from its unilateral actions and settlement-building policies, which sought to change the status quo in the occupied territories, and particularly the Holy City of Jerusalem. His delegation also demanded that the Israeli Government respect the deadlines and timetable agreed for the different stages of the peace process.

52. Jordan believed that the Palestinian leadership was fully entitled to proclaim a Palestinian State within the framework of the peace agreements and called upon the international community to recognize the Palestinian State when it was declared. The Israeli Government had primary responsibility for establishing a climate of respect, trust and peace between Palestinians and Israelis on the basis of equality, justice and respect for the rights of others.

53. Mr. ZAHRAN (Observer for Egypt) said that the right of peoples to self-determination was an integral part of international humanitarian law and a fundamental human right. As to the situation in occupied Palestine, at its previous session the Commission had adopted resolution 1998/4, in which it had called upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law, and to withdraw from the occupied Palestinian territory, including East Jerusalem, and the other Arab territories which it had occupied since 1967 by military force. He deeply regretted that the peace process begun in Madrid in 1991 had reached a deadlock because of Israel's policy, particularly its settlement policy and the measures to cut off the occupied territories, which had an adverse effect on the economic, social and cultural rights of the Palestinian people. That policy had been regularly condemned by the United Nations and some specialized agencies, particularly ILO and WHO.

54. Accordingly, he called upon the Commission to continue its efforts to convince Israel to respect its commitments vis-à-vis the Palestinians, to comply with the Wye River Memorandum and cooperate with the Special Rapporteur on the situation of human rights in the occupied Palestinian territories with a view to opening up the way to a just and lasting peace in the Middle East.

55. Mr. SANTA CLARA GOMES (Observer for Portugal) said his country had always maintained that a solution to the problem of East Timor would be achieved only through the exercise of self-determination by the East Timorese. He welcomed the recognition by Indonesia that the people of East Timor must be consulted. Such consultation must take the form of a direct ballot both inside and outside East Timor. If the vote of the people of East Timor was to be fair and free, however, the prevailing conditions there must improve. The prevailing tension and violence, due largely to the activity of civilian militias armed by Indonesia and the worrying humanitarian situation posed a serious threat to a just settlement of the problem. For consultation to take place in a peaceful climate, a permanent United Nations presence must be established in the region immediately. The Office of the United Nations High Commissioner for Human Rights could, through its involvement, help to reduce tension and promote dialogue and reconciliation in East Timor.

56. Mr. PELEG (Observer for Israel) said that Israel supported the right of self-determination, since the creation of the State of Israel had itself been a restoration of the right of the Jewish people to self-determination. However, that right was not an absolute right; it must be weighed against other rights and could never justify acts of terrorism. It was a right that could take many forms; in the Middle East, the peace process sought to achieve the right of self-determination for all peoples of the region, including Palestinians.

57. In the 1978 Camp David Accords, Israel had recognized the right of the Palestinian people to determine its own future. That approach had found concrete expression in the Oslo Agreements, in which Israel and the Palestine Liberation Organization (PLO) had recognized their mutual rights. Under that process they had undertaken to settle all issues relating to permanent status through bilateral negotiations between the two sides. After decades of sterile resolutions adopted by international organizations, a few years of bilateral negotiations had resulted in 97 per cent of all Palestinians under the authority of the Palestinian Council, which they themselves had elected. Both sides must move the peace process forward to its conclusion, but any attempt to prejudge the settlement of issues relating to permanent status by means of unilateral acts, whether in the name of self-determination or other principles, would only endanger the peace process and in fact force Israel to take measures of its own in an attempt to restore the situation.

58. To save the peace process, the Commission should exercise responsibility and restraint and affirm that only bilateral negotiations were likely to lead to just and lasting solutions. Israel invited the Palestinians to return to the negotiating table and work together to find solutions.

59. Mr. MOUSSAEV (Observer for Azerbaijan) reiterated his country's unswerving commitment to the right of peoples to self-determination. However, that right could be misinterpreted, for example when it was used to justify territorial expansion under the pretext of looking after the interests of ethnic groups in other States, particularly in multi-ethnic States. In such cases, the use of force to realize the right to self-determination by one ethnic group deprived the majority of the population of its fundamental rights. In his commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Mr. Asbjorn Eide, the Expert of the Sub-Commission on Prevention of Discrimination and Protection of Minorities had clearly stated that minority rights could not serve as a basis for claims for secession or dismemberment of a State.

60. Notwithstanding the resolutions of the United Nations Security Council and the decisions of the Organization for Security and Cooperation in Europe, the Council of Europe and other international organizations dealing with the armed conflict between Armenia and Azerbaijan, Armenia continued to affirm that the cause of the conflict was the struggle for self-determination of the Armenian community in the Nagorny Karabakh region of Azerbaijan. That misinterpretation of the right of peoples to self-determination as the right of an ethnic minority to secession threatened regional and international peace and security and the territorial integrity of sovereign States, and therefore could not be ignored by the international community. It should be recalled

that the right to self-determination was applicable to the population as a whole and was not a unilateral right to independence or secession.

61. Mr. RUSDACHIN (Transnational Radical Party), recalling the statement made by the High Commissioner for Human Rights, said that the international community as a whole - with some exceptions - currently realized that the escalating repression by the Belgrade regime in Kosovo Province and the excessive use of force against Albanians were the reason for the present tragic conflict. Yet the international community should recognize that its "tolerance" of the activities of the Belgrade regime and its hesitation in finding a political solution to the problem of the final status of Kosovo had contributed decisively to the worsening of that situation.

62. It was only when the number of civilian deaths reached the thousands, after nearly half a million people had had to flee their destroyed homes and after the entire world had witnessed the massacre at Račak, which had rightly been class as a crime against humanity in the reports of the independent experts and NGOs, that the international community had found the political will to intensify and concretize its efforts. In the report it had submitted to the International Tribunal for the Former Yugoslavia at the Hague, his organization had demonstrated the direct and indirect responsibility of top members of the Government and the President of the Federal Republic of Yugoslavia himself for those events. Immediate indictment of President Milosević was essential for the restoration of respect for human rights and the promotion of the rule of law and democracy in Serbia, Vojvodina, Montenegro and Kosovo.

63. The current mess in the Balkans showed that there was no longer any reason to fear the appearance of a Greater Albania. However, in considering what the final status of Kosovo would be, due attention should be paid to all interdependencies with that province, regardless of whether they were political, economic, social or cultural, international or regional. If all those factors and links were taken into account, the question of broad autonomy or independence for Kosovo should no longer be a taboo.

64. The first issue to be settled was that of respect for human rights and the elementary rules of democracy in the Federal Republic of Yugoslavia so that the rule of law could replace rule by the strongest and the right to life could again become the pre-eminent right.

65. Mr. NHIAL (Christian Solidarity International) said that, if the world was to be spared the current horrors in Bosnia, Kosovo, Burma and the Sudan, the international community must immediately begin to lay the foundations of a mechanism that would allow communities that were repressed by genocidal regimes to exercise their right to self-determination. The sovereignty of States was not a divine right that could be exercised without attention to human rights standards and principles as expressed in international instruments. The international community must not allow the principle of State sovereignty to serve as a licence to commit genocide and associated crimes against humanity, such as slavery.

66. His organization had been involved in human rights advocacy for 20 years. The list of individual and collective human rights abuses was

long: torture, displacement of populations, deportation to concentration camps, forced conversion to other religions, enslavement, particularly of women and children from black African communities, ethnic cleansing, persecution of Christians, and imprisonment of Muslims who upheld democratic ideas. Brutal genocidal regimes that committed crimes against humanity and violated all human rights no longer deserved to be considered governments worthy of the name.

67. His organization was greatly encouraged by the General Assembly's adoption of resolution 53/134, entitled "Universal realization of the right of peoples to self-determination". The key word of that resolution was "universal". While the international community was deeply concerned at present by the tragedy in the Balkans, particularly in Kosovo, that was no reason why it could not also pay attention to genocidal tragedies of still greater magnitude in Africa, including the martyrdom of the Sudanese people.

68. Mr. GARCIA PICCOLA (Pax Romana) drew attention to the work of the international conference of experts on the right to self-determination that had been organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) at Barcelona from 21 to 27 November 1998. Conference participants had concluded that the right to self-determination was firmly established in international law and that its peaceful implementation could contribute significantly to the prevention and resolution of conflicts, especially in cases where the interests of States were in opposition to those of peoples, including indigenous peoples and minorities. They had stressed that self-determination was achieved by a democratic process involving the full participation of the people concerned, including the holding of referendums where appropriate. Effective prevention of conflicts required immediate and committed action.

69. His organization wished to stress the relevance of those considerations during a time of globalization. Many innovative modes of promoting the right to self-determination had appeared and had not yet been sufficiently explored. In the circumstances, the capacity to prevent conflicts in the future would depend on the international community's ability and readiness not only to develop existing procedures but to devise new ones as well. In that connection, his organization believed it was important to empower the United Nations system to play its role fully in that area. He therefore recommended that the Commission should invite the Secretary-General to prepare a working paper on the right to self-determination which would contain a compilation and analysis of materials from different governmental, intergovernmental and non-governmental organizations on the topic, for submission to the Commission at its fifty-sixth session.

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION (agenda item 6) (E/CN.4/1999/12, 15 and Add.1, and 17; E/CN.4/1999/NGO/4-6 and 60)

70. Mr. [illegible] AMARASINGHE (Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance), introducing his annual report (E/CN.4/1999/15) and the addendum thereto, which dealt with his

mission to South Africa, said that the report must be read together with the report that had been submitted to the General Assembly at its fifty-third session (A/53/29).

71. In his general report, he emphasized the measures taken by Governments to meet mandated objectives, on manifestations of racism and racial discrimination that had been brought to his attention and on the follow-up to field visits as well as on visits he planned to make during the coming year. As a result of the cooperation established with a growing number of member States, including those that had invited him to make visits (United States of America, Brazil, Colombia, Germany, France, United Kingdom, Kuwait and South Africa, in chronological order), he had been able to obtain first-hand experience of the situation in those countries that he could not have obtained solely from studying documents.

72. Some countries had already implemented part of the recommendations he had made following those visits. That was the case in the United States of America, where President Clinton had in June 1997 launched his President's Initiative on Race, which was discussed briefly in paragraphs 132 to 135 of the report. He pointed out in particular that his recommendation for the reinstatement of affirmative action measures was supported by the statement by the President's Advisory Board on Race that that policy was still a necessary critical tool for overcoming the effects of past racial discrimination and eliminating disparities, particularly in the field of education, with a view to achieving the goal of a United America.

73. Attention should be drawn to the measures taken by the Government of Brazil to combat racial discrimination in employment and to the efforts made to protect the rights to land ownership of the Quilombos, who were originally fugitive slaves. He also hoped to be informed of progress in the delimitation of territory belonging to indigenous populations and the measures taken to deny access to those who would despoil that land.

74. He noted with satisfaction the committed efforts of the Government of the United Kingdom to attack racism within the police force, particularly in London and Manchester, pursuant to the recommendations he had made following his visit to that country.

75. He also welcomed the preparation by the Colombian Government of a national development plan for the Afro-Colombian population with the participation of the communities concerned, and he hoped to receive direct reports from the Government on the progress in implementing that plan.

76. The French Government continued to pay close attention to the implementation of his recommendations. There had been several judicial rulings in France against incitement to racial discrimination, denying the existence of the holocaust and racial discrimination. Positive measures had also been taken to promote the access of young immigrants to employment. He commended in particular the historic initiative taken by the French National Assembly on 1st February 1998, when it had adopted on first reading a bill that recognized trafficking and slavery as crimes against humanity.

77. It was regrettable that the German Bundestag had not passed the bill against racial discrimination which the Government had tabled, and he encouraged the German Government to continue its efforts in that regard.

78. In 1998, he had reported at length to the Commission on the positive changes in post-apartheid South African society and on the difficulties facing the Government in its reform efforts. The situation that he had observed during his mission to that country was described in detail in the addendum to his report (E/CN.4/199/15/Add.1).

79. The fundamental task of the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, currently in preparation, would be to consider ways of thwarting the resurgence of racist ideologies and discriminatory practices designed to exclude or eliminate individuals or groups simply because they belonged to a particular race or ethnic group. However, the World Conference should above all encourage States that had not yet done so to adopt constitutional and legislative measures to prevent incitement to racial hatred and discrimination in the areas of employment and access to public facilities and to services and, above all, to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families. He stood ready to participate in the work of the Preparatory Committee for the Conference. He also welcomed the initiative taken by the Director-General of UNESCO, who had launched a Programme towards a Culture of Peace and Non-Violence on 5 March 1999 as a prelude to the proclamation by the United Nations of the year 2000 as the Year of Culture, Peace and Non-Violence. Lastly, he expressed the hope that the joint efforts of Governments, United Nations bodies, representatives of civil society and NGOs in particular would contribute to the elimination of racism, racial discrimination and xenophobia in the world.

80. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said that the statement made by the Minister for Foreign Affairs and Trade of South Korea was misleading. If there was a food problem in the Democratic People's Republic of Korea, it was because of the severe natural disasters which had occurred there for several consecutive years and the external blockade imposed on the country. South Korea was misusing that situation for political purposes and, rather than talking about humanitarian concerns, would do better to refrain from obstructing humanitarian assistance.

81. With regard to reciprocal exchanges of prisoners, it should be noted that long-term prisoners originally from the North were those that had been captured during the Korean War and had recently been released after having spent more than 30 or 40 years in prisons in the South. At the same time, there were no "abductees" in the North; there were some persons from the South who had come over to the North of their own free will during and after the Korean War. They had families there and no longer wished to return to the South. Consequently, all prisoners in the South must be unconditionally repatriated to the North.

82. As for the "reunion of separated families", the Government of the Democratic People's Republic of Korea had put forward a great many proposals

in that regard between 1971 and 1992 in order to facilitate contacts between families. But those efforts had been seriously challenged by the authorities of South Korea. Those authorities outwardly claimed that they were prepared to engage in dialogue, exchanges and cooperation with the North, while in fact calling that country an "anti-State organization" and its people "members of an anti-State organization"; they even criminalized contacts between citizens of South Korea and their compatriots in the north.

83. All those contradictory facts had their origin in the National Security Law. As long as it remained in force, it would constitute an obstacle to reconciliation and unity between the North and South, and any attempt at dialogue or cooperation, including the reunification of separated families, would be hypocritical.

84. Mr. IBRAHIM (Sudan) said he wished to inform the representative of Christian Solidarity International, who had claimed in his statement the right to self-determination for the people of southern Sudan, that that right had already been granted to them under a peace agreement concluded in April 1997 between the Sudanese Government and seven of the eight warring factions in that region. The Government was pursuing its negotiations with the eighth faction so that it might agree to end the civil war which had caused so many victims and so much destruction in southern Sudan. It should be noted that Sudan had been divided in 1994 into 26 States of which 10 were located in the South. Each of those States enjoyed some degree of autonomy, particularly in the legislative matters. The seven factions that had signed the peace agreement controlled 75 per cent of the territory of the 10 southern States, and if the population of those States voted for separation during the referendum to be held in three years, the Sudanese Government would respect its choice, since peace was its primary consideration.

85. In conclusion, he expressed the hope that the international community would exert pressure on the eighth faction that was still at war to agree at last to sign the peace agreement during the negotiations to be held at Nairobi on 20 April 1999 under the auspices of the countries of the Horn of Africa and with the assistance of their friends, the European Union and the United States of America.

86. Mr. FERNANDEZ PALACIOS (Cuba), speaking on a point of order, said he recognized the need to limit the time of speakers' statements in the Commission in order to increase the efficiency of its work. Nevertheless, that rule should be applied with maximum flexibility, particularly where dignitaries were concerned. In fact, the practice had always been to allow them to speak freely. From the outset of the present session, however, a great many of them, including the President of the State Council of Cuba, had been interrupted with scant ceremony. Accordingly, his delegation requested that its concern should be duly taken into account in the interest of the future work of the Commission.

87. The CHAIRPERSON said that she understood the concerns of the representative of Cuba, but recalled that her role was to apply the established rules impartially. She therefore asked him not to complicate her task.

88. Mr. FERNANDEZ PALACIOS (Cuba) emphasized that all participants must be allowed to be heard so that they could understand each other. He appealed once again to the Chairperson to apply the rules concerning time-limits on statements with greater flexibility.

89. The CHAIRPERSON said that it was not for her to change the rules established for the present session; they could be changed at the next session.

The meeting rose at 1.20 p.m.